IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1068 OF 1995

The State of Maharashtra ..Appellants

versus

1. Madhukar P. Kamat
2. District Health officer, Raigad Zilla Parishad, Alibag ..Respondents

Mr. S. N. Gawade, AGP for the Appellants.

Mr. S. M. Oak for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 5TH APRIL,2005

ORAL ORDER :

1. Heard learned AGP for the Appellants - State and counsel for the respondents.

2. Respondent - claimant suffered an accident while he was on duty. He was sitting in a jeep of the Government. He was accompanied by other Government servants. At a particular point driver could not control the jeep and then respondent failed out from the jeep receiving head injury and fractures to both the hands. He claimed Rs.75,000/-, but later on enhanced to Rs.2,51,000/-.

The Tribunal awarded him Rs.61,400/- and therefore this Appeal by the State.

3. There cannot be any dispute that the Respondent - claimant is liable to pay the compensation. However, the question is of quantum. Doctor who examined the respondent was examined in the court. He has stated that the respondent had suffered Fracture colales, distal redious left, Fracture of olecromon right side (elbow) and head injury. According to the doctor it was temporary disability to the extent of 25%. In this background of the matter the claimant claimed Rs.75,000/- initially and for reasons best known to him enhanced the claim to Rs.2,51,000/-. Then absolutely no evidence of the claimant about any permanent disability. Doctor has contradicted him in this regard and according to the doctor it was temporary disability. The period of hospitalisation or treatment was four and half months. He was earning Rs.1,700/- per month. In his evidence he has stated that because of the head injury he started getting attack of fits and he could not get sleep and he had to resign voluntarily because of this ailment. All these contentions appears to be absolutely bogus. No attempt is made to prove that there was any connection between head injury and the attacks of fits, if any, which the claimant was getting. There

is nothing on record to show that he resigned on that count. Therefore award of compensation by the Tribunal to the tune of Rs.61,400/-, is not at all justified.

4. Looking to the injury suffered and the period of treatment or hospitalisation, Rs.20,000/- would be proper compensation. Hence, the following order :

ORDER

. Appeal is partly allowed.

. Order of the Tribunal is modified. Respondent - claimant will be entitled to get Rs.20,000/- only. He will be liable to pay proportionate costs of this Appeal.

5.04.2005 (D.G. DESHPANDE, J.)